

2014-018659  
SF. E. Jacobs

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

3 -----X  
4 GONZALO CORTES,

5 PLAINTIFF,

6 -against-

7 Case No.:  
8 14 CV 3014 (SLT) (RML)

9 CITY OF NEW YORK, Sergeant JONCRIS RZONCA, Shield No. 2960,  
10 Police Officer MATTHEW SMITH, Shield No. 9407, Police  
11 Officer CHRISTOPHER MUSA, Shield No. 9064, Police Officer  
12 DOMINIC RUGGIERO, Shield No. 20894, Police Officer SHAUN  
13 RYAN, Shield No. 10960, Police Officer JOHN CESTARO, Shield  
14 No. 9553, Police Officer ANDREW SCHULZ, Shield No. 5758,  
15 Sergeant STEPHEN DALY, Shield No. 944, Police Officer MARIO  
16 CAPPUCCIA, Shield No. 19046, and JOHN and JANE DOE 6  
17 through 10, individually and in their official capacities  
18 (the names John and Jane Doe being fictitious, as the true  
19 names are presently unknown),

20 DEFENDANTS.  
21 -----X

22 DATE: March 25, 2016

23 TIME: 10:20 A.M.

24 DEPOSITION of the Plaintiff, GONZALO

25 CORTES, taken by the Defendants, pursuant to a Court Order  
and to the Federal Rules of Civil Procedure, held at the  
New York City Law Department, 100 Church Street, New York,  
New York 10007, before Gary Merola, a Notary Public of the  
State of New York.

1 A P P E A R A N C E S:

2

3 HARVIS & FETT, ESQS.  
Attorneys for the Plaintiff  
4 GONZALO CORTES  
305 Broadway - 14th Floor  
5 New York, New York 10007  
BY: GABRIEL P. HARVIS, ESQ.  
6

7

ZACHARY W. CARTER, ESQ.  
8 CORPORATION COUNSEL  
THE NEW YORK CITY LAW DEPARTMENT  
9 Attorneys for the Defendants  
CITY OF NEW YORK, Sergeant JONCRIS RZONCA, Shield No  
10 2960, Police Officer MATTHEW SMITH, Shield No. 9407,  
Police Officer CHRISTOPHER MUSA, Shield No. 9064,  
11 Police Officer DOMINIC RUGGIERO, Shield No. 20894,  
Police Officer SHAUN RYAN, Shield No. 10960, Police  
12 Officer JOHN CESTARO, Shield No. 9553, Police  
Officer ANDREW SCHULZ, Shield No. 5758, Sergeant  
13 STEPHEN DALY, Shield No. 944, Police Officer MARIA  
CAPPUCCIA, Shield No. 19046, and JOHN and JANE DOE 6  
14 through 10, individually and in their official  
capacities (the names John and Jane Doe being  
15 fictitious, as the true names are presently unknown)  
100 Church Street  
16 New York, New York 10007  
BY: ELISSA B. JACOBS, ESQ.  
17 File #: 2014-018659  
Control #: 160998  
18

19

20 ALSO PRESENT:

21

DAVID GUERRERO, Spanish Interpreter

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\* \* \*

23

24

25

G. CORTES

1 that you find in the transcript.

2 Do you understand?

3 A. Yes.

4 Q. If you make changes to that transcript, I will be  
5 able to comment on those changes at trial.

6 Do you understand that?

7 A. Yes.

8 Q. We can take breaks during the deposition. If you  
9 need to take a break, let me know, but we can't take a  
10 break while a question is pending. This means if I ask you  
11 a question, you have to answer the question before you take  
12 a break.

13 Understood?

14 A. I understood.

15 Q. Have you ever had your deposition taken before?

16 A. No.

17 Q. Have you ever testified as a witness before?

18 A. No.

19 Q. English is not your native language, correct?

20 A. No.

21 Q. What is your native language?

22 A. Spanish.

23 Q. Where are you from?

24 A. Columbia.

25 Q. Do you understand any English?

G. CORTES

1 A. Wendy and Blanca.

2 Q. Do you know their last names?

3 A. No. No, I don't know. We only go by first names.

4 Q. Where do you work?

5 A. I work for a hotel company.

6 Q. What is the name of the hotel company?

7 A. Warwick Hotel.

8 Q. You still work there with Wendy and Blanca?

9 A. Yes.

10 Q. When did you first discuss this case with them?

11 A. A long time ago.

12 Q. When you first filed the lawsuit, before you  
13 filed the lawsuit?

14 A. The same week right after the incident occurred.

15 Q. What did you tell them?

16 A. I told them what had happened to me inside the  
17 prison.

18 Q. Why did you discuss the case with them?

19 A. I had nobody to talk with and I was very  
20 frustrated.

21 Q. How did you get to the deposition today?

22 A. By train.

23 Q. Did you come with anyone?

24 A. No.

25 Q. When did you first meet with your attorney on



G. CORTES

1 to the buffet or to the client's table.

2 Q. Do you have a regular schedule?

3 A. Yes.

4 Q. What is your schedule?

5 A. From 6:00 a.m. to 12:00, 12:30.

6 Q. That is around lunchtime, 12:00, 12:30 in the  
7 afternoon?

8 A. Yes.

9 Q. How many days a week do you work?

10 A. My regular schedule is five days.

11 Q. Is that Monday through Friday or a different five  
12 days?

13 A. I'm off Sundays and Mondays.

14 Q. What is your current salary?

15 A. Per hour or per check?

16 Q. Let's start with per hour.

17 A. Per hour I will say to you is \$28 an hour. The  
18 check varies because I work at the bar, I work at the  
19 buffet and we work extra hours.

20 Q. How long have you been working at the Warwick  
21 Hotel?

22 A. Around twelve years.

23 Q. Back in July of 2013, were your duties the same?

24 A. Yes.

25 Q. Were your hours the same or similar?

G. CORTES

1 Q. Have you ever received Social Security  
2 Disability?

3 A. I don't understand that.

4 Q. Again, it is something if someone is disabled you  
5 would get money from the government?

6 A. It's not the same as unemployment?

7 Q. No, it is different.

8 A. No.

9 Q. You never received any assistance from the  
10 government to help you pay for housing?

11 A. No.

12 Q. Have you ever served in the military?

13 A. Yes, but not here in the United States.

14 Q. In Columbia?

15 A. Yes.

16 MS. JACOBS: Let's take a break.

17 (Whereupon, a short recess was taken.)

18 MS. JACOBS: Back on the record.

19 Q. Prior to July 1st of 2013, did you have any  
20 chronic physical illness?

21 A. I don't understand your question. Can you be  
22 specific?

23 Q. Did you have any condition that required  
24 continuous treatment from a doctor?

25 A. Related to what?

G. CORTES

1 City Police Department?

2 A. No.

3 Q. What are your feelings about the NYPD?

4 A. I can't express.

5 Q. Is it positive feeling, negative feeling,  
6 something else?

7 A. Something different.

8 Q. The question seems to make you upset.

9 Can you explain why you are upset?

10 A. Afraid.

11 Q. Anything other than being afraid?

12 A. So many things go through my head.

13 Q. Can you tell me what some of those things are?

14 A. It's fear, anger. It is mostly fear.

15 MR. HARVIS: Any time you want to take a  
16 break, Gonzalo, let us know.

17 Q. Sure. Just let us know if you want to take a  
18 break.

19 Other than on this occasion in July of 2013, have  
20 you ever been arrested?

21 A. Yes.

22 Q. How many times?

23 A. Once.

24 Q. When was that?

25 A. I don't remember.

G. CORTES

1 Q. Is it before or after this incident of July 2013?

2 A. Before.

3 Q. Is it more than five years ago?

4 A. Yes.

5 Q. Is it more than ten years ago?

6 A. Yes.

7 Q. Was it while you were working for the Warwick  
8 Hotel or before that?

9 A. I was working at a different place.

10 Q. If you know what was the basis for that arrest?

11 MR. HARVIS: Objection.

12 You can answer.

13 A. Arrested when?

14 Q. Not the arrest in July of 2013, but the other  
15 arrest.

16 A. That I had touched a person.

17 Q. Do you know what the charge was?

18 A. It was dismissed.

19 Q. What I'm asking is, do you know what the criminal  
20 charge was? Was this about an assault, was this a sexual  
21 misconduct, touching, was this something else, disorderly  
22 conduct, if you know?

23 A. I don't know. I went with my lawyer, we went to  
24 court and the case was dismissed so I don't know what was  
25 the case.

G. CORTES

1 Q. Were there any particular days of the week that  
2 you would go?

3 A. Yes, the days they played Columbian music.

4 Q. Did they do that on a particular day of the week?  
5 For example, would they play Columbian music every Monday?

6 A. It was Sunday and you could go to the D.J. and  
7 request a song.

8 Q. Did you know the name of the D.J.?

9 A. No. They change the D.J. constantly.

10 Q. Who introduced you to Friends Tavern?

11 A. Friends.

12 Q. Can you give me any names?

13 A. Octavio, Romulo.

14 Q. When you would go to Friends Tavern, would you  
15 drink alcohol?

16 A. Yes.

17 Q. On a typical Sunday, how much would you drink?

18 A. It depends. What I used to drink is Aguardiente  
19 which as Columbian drink. It's a bottle, is alcohol, it is  
20 like rum.

21 Q. How much Aguardiente did you drink?

22 A. It depends. They sell you half a bottle, a full  
23 bottle. I would say five to six shots per day.

24 Q. Is Friends Tavern a gay bar?

25 A. Yes.



G. CORTES

1 complaint?

2 A. I always sit with the Colombian bartender, but  
3 this time he said to sit with the other person, I didn't  
4 see any problem and I just sat there.

5 Q. How many bartenders were there?

6 A. There are two, the Colombian and the other person  
7 and there is a bar back. That's the guy who brings the  
8 ice.

9 Q. Do you know the name of the bartender that you  
10 sat with?

11 A. They change names, but I heard everybody was  
12 calling him Peter.

13 Q. There was the bartender that we were talking  
14 about earlier, correct?

15 A. Yes, the one that as soon as you enter the  
16 Dominican one.

17 Q. Who says he's Colombian sometimes?

18 A. Yes, he's the one who says he's Colombian so he  
19 can attract more Colombian clients.

20 Q. What did you order?

21 A. I got a half a bottle of Aguardiente.

22 Q. And you would have gotten that from Peter, the  
23 bartender?

24 A. Yes.

25 Q. How long did it take you to get a drink?

G. CORTES

1 bottle, I drank two shots and immediately I went to the  
2 bathroom.

3 Q. How long were you in the bathroom before you came  
4 back to the bar?

5 A. I don't know how to calculate it because there  
6 was a line to go to the bathroom.

7 Q. More than a half hour?

8 A. No.

9 Q. What did you do when you got back to the bar?

10 A. I came back and I saw somebody spat at the  
11 bottle. There was saliva on the bottle and I was surprised  
12 and I asked Peter what happened.

13 Q. Do you drink straight from the bottle or do you  
14 pour it into a glass first?

15 A. They give you small plastic cup, plastic. They  
16 give you a cup, seltzer water and cranberry juice. And  
17 that's what I usually drink.

18 Q. Was there anyone in your seat when you went back  
19 to the bar?

20 A. There was a female to my left and there were  
21 other people to my right that were drinking the same drink  
22 that I was having.

23 Q. Did you have a seat at the bar?

24 A. Yes.

25 Q. When you came back from the bathroom, was your

G. CORTES

1 A. Yes, he tried to get me out of the bar. He said,  
2 let's go outside.

3 Q. And did he grab you again?

4 A. No, because I started backing up, I started to go  
5 back. I moved back and then I called the police.

6 Q. You said you called the police. You called 911  
7 or you called another number?

8 A. I called 911.

9 Q. Were you able to complete the call?

10 A. Yes.

11 Q. What did you say when you were on the phone?

12 A. I told them that I needed help. That I was at a  
13 bar and everything was out of control.

14 Q. Was anyone else involved in this altercation  
15 other than yourself and the manager?

16 A. When I was arguing with the manager, Peter  
17 started yelling. The other people at the bar were yelling  
18 too. When they saw I called the police right away  
19 everybody disappeared. They started cleaning the bar and  
20 they removed the bottle that I had. The bottle that I  
21 asked for, it disappeared, that bottle.

22 Q. Do you remember anything that Peter was yelling?

23 A. I just saw that he was yelling, but I couldn't  
24 understand what he was yelling. There were too many people  
25 yelling.

G. CORTES

1 A. Yes.

2 Q. How old was the second officer?

3 A. They were around the same age, around forty years  
4 old. He wasn't that old, he wasn't that young.

5 Q. What color was the second officer's hair?

6 A. I don't remember.

7 Q. Did he have any facial hair?

8 A. No.

9 Q. Was he wearing glasses?

10 A. I don't remember.

11 Q. Was he taller or shorter than the first officer  
12 or the same height?

13 A. Same height.

14 Q. Did you see the police car arrive?

15 A. No, because I was inside the bar.

16 Q. Are there windows in the front of the bar?

17 A. There is one, but it's dark so you cannot see  
18 outside the bar.

19 Q. Does it have blinds or something covering it?

20 A. The windows are black.

21 Q. Was there pink on them?

22 A. Yes, it has the logo of the bar on it.

23 Q. Did you say anything to the police officer when  
24 he put you in handcuffs?

25 A. So, I was asking him why I was being arrested and

G. CORTES

1 they told me because I had hit the bartender. I asked the  
2 manager are you sure about what you're doing, you checked  
3 the video and he say yes, we checked the video and we saw  
4 when you hit the bartender.

5 Q. Who said they checked the video; the police, the  
6 manager or someone else?

7 A. The officer who was with the manager.

8 Q. Did you ever hit the bartender?

9 A. I didn't touch him. There is the bar, it's very  
10 wide. I cannot reach him, plus he is very tall and strong.  
11 If I touch him he's going to kill me. It's just an  
12 expression. He is so tall and strong that he's not going  
13 to be.

14 MR. HARVIS: He is trying to say he wouldn't  
15 literally kill him.

16 MS. JACOBS: I understand.

17 A. Yeah, I don't want you to accuse him that he  
18 tried to kill me.

19 Q. Understood, it's just an expression.

20 Did you ever go behind the bar?

21 A. Never.

22 Q. Did you see anyone else hit the bartender?

23 A. No.

24 Q. Did anyone refuse you service at any point in  
25 time?



G. CORTES

1 A. I never had the chance.

2 Q. How long were you standing outside before you  
3 were placed in the police car?

4 A. I don't remember, but I didn't stay there for a  
5 long time.

6 Q. Was it more than three minutes?

7 A. More.

8 Q. More than five minutes?

9 A. Yes, because one of the officers stayed inside  
10 and I was outside with the other officer. So, it took time  
11 to put the handcuffs and turn it around and I was just  
12 waiting.

13 Q. Were you handcuffed in front of you or behind  
14 you?

15 A. Behind me.

16 Q. Did any other officers show up on the scene other  
17 than those two?

18 A. No, just those two.

19 Q. While you were on the scene, did you make any  
20 complaints about any injuries?

21 A. In the place I was being arrested? I don't  
22 understand the question.

23 Q. Correct, before you were placed in the police  
24 car, did you tell anybody that you had any injuries, any  
25 police officer that you had any injuries?

G. CORTES

1 A. No.

2 Q. After you were placed in the police car, what  
3 happened next?

4 A. They took me to the precinct.

5 Q. Did you have to wait in the police car for any  
6 period of time before you started -- before the car started  
7 moving?

8 A. They left me in the car and they went back to the  
9 bar.

10 Q. Were you left in the car alone?

11 A. I was in handcuffs and I didn't see anybody in  
12 the front of the car.

13 Q. Were there any officers guarding you from outside  
14 the car?

15 A. I didn't see anybody. I don't know.

16 Q. Did you see both officers go back into the bar?

17 A. I turned around and I just saw one, but I don't  
18 know where the other one went.

19 Q. How long were you sitting in the car before the  
20 car started moving?

21 A. For a little while. I don't know how to  
22 calculate how long it was.

23 Q. Was it more than ten minutes?

24 A. More than ten minutes.

25 Q. More than fifteen minutes?

G. CORTES

1 time?

2 A. No.

3 Q. At some point in time, were your handcuffs  
4 removed?

5 A. At the moment I passed the glass door they asked  
6 my at that moment, at that moment they removed my handcuffs  
7 and they asked to give my belt, my shoelaces, my wallet and  
8 everything in my pocket.

9 Q. The desk that you were standing at, was it a tall  
10 desk or a short desk?

11 A. I don't understand the question.

12 Q. You said when you first came in there was a  
13 reception area.

14 A. Yes.

15 Q. Was it a table, was it a desk, what was it?

16 A. It was a platform and there was a high desk and  
17 it was bricks and you had to look up at the officer that  
18 was sitting there.

19 Q. At some point in time did you have to stand in  
20 front of a wooden desk?

21 A. Those are wooden desks. Once I pass the glass  
22 door and there was an officer there writing, but I was  
23 never actually standing in front of it.

24 Q. You were never actually standing in front of that  
25 wooden desk?

G. CORTES

1 Q. What did that officer look like, if you remember?

2 A. First I can remember he was Hispanic, but I think  
3 he was born here because he couldn't understand much  
4 Spanish because he was asking some questions to somebody  
5 else and the person was speaking Spanish and he couldn't  
6 understand.

7 Q. And do you know that officer's name?

8 A. No, because he was far from where I was.

9 Q. How many cells were there in that room?

10 A. One cell.

11 Q. Going back to the officer that was in the room  
12 how tall was he?

13 A. He was a little bit taller than I am and he was  
14 heavy, on the heavy side.

15 Q. What color is his hair?

16 A. I don't remember.

17 Q. Did he wear glasses?

18 A. I don't remember.

19 Q. Did he have any facial hair?

20 A. No, I don't remember. Because he was sitting by  
21 the computer, I was in the cell so I could only see the  
22 right side of his face.

23 Q. When you were first placed in the cell, you said  
24 there were about eight or nine other people there?

25 A. Yes.

G. CORTES

1 Q. Was the cell crowded?

2 A. There were no places to sit available. They  
3 didn't have any restrooms and some people have to sit on  
4 the floor.

5 Q. Was it crowded?

6 A. Yes, with the people that were there, yes.

7 Q. Did you have any conversations with anyone who  
8 was in the cell with you?

9 A. At that moment, no, because you don't know nobody  
10 there.

11 Q. You didn't recognize anybody who was there?

12 A. No.

13 Q. Were you fingerprinted?

14 A. I don't remember.

15 Q. Was your photograph taken?

16 A. At that moment when I went inside, no.

17 Q. Was your photograph taken at any point in time  
18 before you were transported to the hospital?

19 A. After the incident.

20 Q. Was your photographs taken before you were taken  
21 to the hospital or after you were brought back from the  
22 hospital?

23 A. They took that photograph after I left the  
24 hospital before going to court.

25 Q. Were you searched at any point in time?



G. CORTES

1 prisoners taken out of the cell?

2 A. No.

3 Q. From the time that you were initially put in the  
4 cell until the time that you were taken out, did you see  
5 any other officer come into use the computer?

6 A. There was only one outside on the computer.

7 Q. That was the entire time before you were taken  
8 out to the bathroom?

9 A. Yes.

10 Q. Did any other officers come into the cell, come  
11 into the area where the cell and the computers were at the  
12 time?

13 A. When I was inside the cell, I asked him if I  
14 could use the restroom. Another officer came, he said yes,  
15 he would allow me to use the restroom.

16 Q. You asked the officer who had been using the  
17 computer?

18 A. No, to the ones that were outside.

19 Q. How were you able to communicate to the officers  
20 outside?

21 A. I was asking to go to the bathroom. I don't know  
22 if it was the officer who was outside who told him or  
23 somebody else told him that I needed to go to the restroom.

24 Q. Were there any other prisoners placed in the cell  
25 from the time you were placed in the cell until the time

G. CORTES

1 when you were taken out to use the restroom?

2 A. I don't understand the question.

3 Q. You said when you were first placed in the cell  
4 there were eight or nine prisoners there.

5 My question is from the time that you were  
6 initially placed in the cell until the time that you left  
7 to go to the bathroom, were there any additional prisoners  
8 placed in that cell?

9 A. No.

10 Q. Which officer came to escort you to the restroom?  
11 Is it an officer that you had seen before?

12 A. No.

13 Q. Can you describe that officer?

14 A. He was tall, he was a little strong. He was not  
15 young. He looked around thirty-five years old.

16 Q. Is he white?

17 A. White.

18 Q. Do you know what color hair he had?

19 A. Black.

20 Q. Did he have any kind of facial hair?

21 A. No.

22 Q. Was he in uniform?

23 A. Yes.

24 Q. Wearing like a blue jacket and shirt?

25 A. Blue shirt.

G. CORTES

1 Q. When you were taken out of the cell, were  
2 handcuffs placed on you again?

3 A. Yes.

4 Q. Just for clarity sake.

5 I'm going to ask for this period of time when you  
6 were taken to the bathroom.

7 You were escorted to another area of the  
8 precinct?

9 A. Yes.

10 Q. Can you describe where that area was in relation  
11 to the room with the cell?

12 A. The cells where the right side and the glass door  
13 on the left exit through the glass door and there was  
14 another room on the left.

15 Q. Was there a door to that room?

16 A. Yes.

17 Q. Was that another glass door, a wooden door or a  
18 metal door?

19 A. Metal.

20 Q. Was that door opened as you approached it, was it  
21 closed, did the officer have to unlock it?

22 A. Somebody opened it before I got to the door.

23 Q. So, you observed someone open it?

24 A. The first time I entered it was closed. When I  
25 first entered to the precinct I was curious, I did notice

G. CORTES

1 bathroom, was that closer to when you came to the precinct  
2 or when you were taken to the hospital, if you understand?

3 A. Closer to the time when I got to the precinct.

4 Q. So, again don't guess, but if this helps.

5 Were you there for an hour before you were taken  
6 to the bathroom?

7 A. Yes.

8 Q. Were you there for more than two hours?

9 A. Before they took me to the hospital?

10 Q. Before you were taken into the bathroom.

11 A. Calculating the time, from the time I asked for  
12 the phone, I would say around an hour.

13 Q. You were taken through the metal door to use the  
14 bathroom?

15 A. I couldn't go through the metal door so it was  
16 very dark and there was nobody there.

17 Q. So, you refused to go through the door?

18 A. Yes, because for me to go to the restroom I  
19 noticed it was too dark and I was afraid.

20 Q. Did you say anything to the officer?

21 A. Yes, I told him that I didn't want to go. That  
22 he could return me back to the cell.

23 Q. Did the officer say anything to you or to anyone  
24 else while he was escorting you from the cell to the metal  
25 door?

G. CORTES

1           A.       When I told him that I didn't want to go to the  
2       restroom, that I want to go back, that's the moment they  
3       grabbed me and they pushed me against the cell and that's  
4       when they hurt my shoulder. He was very angry and he  
5       whispered to my ear, "you asked me to go to the bathroom."

6           Q.       You were being escorted from the cell to the  
7       metal door, you were being escorted by one officer?

8           A.       When they were moving me from the cell to the  
9       bathroom there was only one officer. When I refused to go  
10      inside the bathroom, I looked back and there were five  
11      officers.

12          Q.       Did you pass through the doorway where the metal  
13      door was before you refused to go any further?

14          A.       No, because it was dark and there was nobody  
15      there and that's when I refused and I refused to walk  
16      inside.

17          Q.       You said you were pushed up against the bars?

18          A.       Yes.

19          Q.       Were you pushed through the doorway where that  
20      metal door was?

21          A.       I bypassed the doorway a little bit and that's  
22      when they pushed me against the bars.

23          Q.       Did you go through the doorway of your own  
24      volition or did someone push you through the doorway?

25          A.       That's when they pushed me. That's when they



G. CORTES

1 pushed me against the bars and that's when they whispered  
2 in my ear, "oh, I thought you wanted to go to the  
3 bathroom."

4 Q. You said to this officer that you didn't want to  
5 go to the bathroom. Did you say this in English or in  
6 Spanish?

7 A. In English.

8 Q. How loudly were you speaking?

9 A. My tone was very, very moderate. I wasn't  
10 yelling. I just told him I don't want to go to the  
11 bathroom, take me back.

12 Q. Immediately after that, before you were pushed,  
13 did he say anything in response?

14 A. Yes, what I said before, the officer said "oh, I  
15 thought you wanted to go to the bathroom." That is all he  
16 said.

17 Q. So, immediately after you said I don't want to go  
18 through, you were pushed through the doorway?

19 A. Yes.

20 Q. Where on your body were you pushed?

21 A. So, I was handcuffed. He pushed me. When they  
22 had the handcuffs on he grabbed me with the handcuffs and  
23 he pushed me to the cell and that's when he asked me, "oh,  
24 I thought you wanted to go to the bathroom."

25 Q. So, the officer grabbed your handcuffs?

G. CORTES

1 A. Yes.

2 Q. If you know, this was the officer who had  
3 escorted you to the bathroom?

4 A. Yes.

5 Q. Other than grabbing you by the handcuffs, when he  
6 initially pushed you, did he put his hands on any other  
7 parts of his body?

8 A. No, just when he picked me up and he pushed me to  
9 the bars.

10 Q. Did he physically push you up on your feet?

11 A. He didn't lift me up completely, but since he was  
12 taller, I do feel the force that he was trying to lift me.

13 Q. How far was it from that doorway to the cell?

14 A. (Witness indicating.)

15 MR. HARVIS: Let the record reflect the  
16 witness is indicating one step.

17 MS. JACOBS: That is fine.

18 A. I was standing by the metal door and the cell was  
19 a step away from the cell to my left.

20 Q. Were there any lights on all in that area?

21 A. Just the outside. Inside everything was dark,  
22 lights off.

23 Q. Everything behind that metal door was dark?

24 A. Yes.

25 Q. When the officer pushed you up against the cell,

G. CORTES

1 what part of your body hit the cell?

2 A. My right shoulder.

3 Q. Did any other part of your body hit the cell?

4 A. I had to move my face to the left side so I  
5 wouldn't hit the cell. If I had been facing the cell  
6 straight he would have broken my face.

7 Q. The cell has bars on it?

8 A. Yes, they have bars.

9 Q. Did you see if there were any bathrooms back in  
10 that area?

11 A. Yes, all the way to the end.

12 Q. How far was it all the way to the end?

13 A. Really far. That's why I was afraid to go in.

14 Q. Could you see the bathrooms from the doorway?

15 A. A little bit because it was really dark. I could  
16 barely see the toilet.

17 Q. Did any part of the front of your body other than  
18 your shoulder come in contact with the cell?

19 A. No, just my right shoulder.

20 Q. When the officer pushed you up against the cell,  
21 that's when he -- did he whisper in your ear or was he  
22 speaking in a normal voice?

23 A. Whispering.

24 Q. Did you say anything in response?

25 A. No, because I was afraid.

G. CORTES

1 Q. What happened immediately after he was whispering  
2 in your ear?

3 A. He returned me to the cell.

4 Q. You said at some point you looked back and you  
5 saw more than just this one officer?

6 A. Yes. He took me out of my cell. When I turned  
7 back that's when I saw the other officers.

8 Q. When you turned back to get back to the cell? I  
9 didn't understand what you meant.

10 A. No, when I was going to the bathroom.

11 Q. Where did you see these other officers?

12 A. When I was by the metal door.

13 Q. Before you were pushed in the cell?

14 A. Yeah. He took me there, when I turned around I  
15 saw the other officers there. That's why I was afraid to  
16 go inside.

17 Q. Where were the other officers standing?

18 A. They were behind me, by the metal door.

19 Q. I'm sorry, I'm just trying to get clarification.  
20 This was before he pushed you; is that correct?

21 A. Yes, before he pushed me.

22 Q. So you were already inside -- you had already  
23 gone in through the metal door?

24 A. Yes, that's when I saw all the officers behind  
25 me.

G. CORTES

1 Q. The one officer who was escorting you, did he  
2 still have his hands on you?

3 A. Yes.

4 Q. How far away from you were the other four  
5 officers?

6 A. They were all together.

7 Q. How far away from you were they?

8 A. It was me and there was the officer that was  
9 escorting me and they were behind that officer.

10 Q. Were they all looking in that direction?

11 A. Yes.

12 Q. Had you seen any of those officers before that  
13 moment?

14 A. No.

15 Q. You hadn't seen any of them at Friends Tavern  
16 when you were arrested?

17 A. No, because these were tall officers.

18 Q. And none of them was the officer who had been  
19 using the computer?

20 A. No, because he escorted me to the bathroom. He  
21 was still sitting at the computer. It wasn't him.

22 Q. It wasn't the officer who had been sitting at the  
23 desk with the table when you first came in, correct?

24 A. No, because this one were younger.

25 Q. Do you remember what any of those four look like?



G. CORTES

1           A.       All I know it was a strong force pushing me  
2       against the cell and they were all behind me.

3           Q.       Did you feel more than one pair of hands on your  
4       body?

5                   Mr. HARVIS:  Objection.

6                   You can answer.

7           A.       I wouldn't be able to say.  Just the fear, the  
8       situation that I was in.  I didn't want to go inside that  
9       place.  I couldn't say if there were more than two hands on  
10      top of me.

11          Q.       How long were you held up against the cell?

12          A.       I don't understand the question.

13          Q.       Was it for a second, was it for ten seconds, was  
14      it thirty seconds?

15          A.       All I remember is they lifted me, they pushed me  
16      against the cell and that's when he whispered in my ear I  
17      thought you wanted to go to the restroom so it is hard for  
18      me to calculate how long I spent against the cell.

19          Q.       Immediately after he whispered in your ear, you  
20      were taken off of the cell?

21          A.       Yes, they removed me from the bars and they took  
22      me back to the cell.

23          Q.       When you say, "they", how many people escorted  
24      you back to the cell?

25          A.       When I looked back there were five officers, but



G. CORTES

1     only one actually took me back to the cell. The other four  
2     went back to the desk.

3           Q.     The officer who took you back to the cell, was it  
4     the same officer, was it the same officer who had pushed  
5     you into the bars?

6           A.     Yes.

7           Q.     You said you were pushed into a cell.

8                    Could you look through that cell door, the bars  
9     you were pushed up against, if you look through them would  
10    you be looking into a cell?

11          A.     Yes. The only thing I saw was the big room and  
12    all the way on the end was a toilet.

13          Q.     When you pushed up against the bars, you are  
14    looking into the cell, correct?

15                   MR. HARVIS: Objection. Just because he  
16                    said he was looking to the left when he was  
17                    pushed against the bar, but you can answer.

18          A.     Yes.

19          Q.     Did you at some point in time get a look through  
20    those bars to whatever was behind them?

21          A.     Yes.

22          Q.     What did you see behind those bars that you were  
23    pushed against?

24          A.     So, a big room and a toilet and there was no  
25    place for you to see. Just the toilet.

G. CORTES

1 Q. And that was on the other side of the bars?

2 A. Yes.

3 Q. Did any of the other four officers say anything  
4 to you or did you hear any of the four officers say  
5 anything when you were pushed up against the bar?

6 A. No.

7 Q. Did those four officers say anything to you at  
8 any point in time while you were at the precinct?

9 A. No.

10 Q. How long was it from when you said that you  
11 didn't want to go to the bathroom until when the officer  
12 pushed you up against the bars?

13 A. I don't understand your question.

14 Q. From when you said you didn't want, you refused  
15 to go into the dark area, the dark hallway, how long was it  
16 from when you refused to when the officer pushed you up  
17 against the cell? Was it a matter of seconds, was it  
18 longer than that?

19 A. I don't know how to calculate the time, but it  
20 was really fast.

21 Q. The officer escorted you back to the cell you had  
22 originally been placed in?

23 A. Yes.

24 Q. And when you were put back in the cell your  
25 handcuffs were removed?

G. CORTES

1 A. No.

2 Q. What happened when you were put back in the cell?

3 A. They put me back inside with the handcuffs on.

4 Q. You say, "they."

5 Was this one officer who had been escorting you  
6 to the bathroom?

7 A. Yes.

8 Q. Did anyone else have their handcuffs on in the  
9 cell?

10 A. No.

11 Q. Did the officer say anything else to you while he  
12 brought you back to the cell, put you back in the cell?

13 A. No, nothing.

14 Q. Did you ask anyone to take the handcuffs off?

15 A. No, he left me in the cell and he left.

16 Q. Was there any other officers using the computer  
17 in that room?

18 A. Yes.

19 Q. How many officers were there?

20 A. One.

21 Q. Did you say anything to that officer?

22 A. Yes.

23 Q. What did you say to that officer?

24 A. I was asking him why he was doing that.

25 Q. By that, you meant why the other officer had

G. CORTES

1 pushed you against the cell?

2 A. Another officer came, Officer Smith and I let the  
3 officer know that I was having pain and he said that if I  
4 call the ambulance I would be the last person leaving that  
5 place. So, I told him I didn't want them to hit me again.

6 Q. How did you know this officer's name was Officer  
7 Smith?

8 A. Because this was a person that was treating me  
9 very well and I told him that what happened to me and he  
10 said, "don't worry, I'm going to make sure this doesn't  
11 happen to you again."

12 Q. And again this was Officer Smith who said this?

13 A. Yes.

14 Q. Was this the officer who was at Friends Tavern?  
15 If you know, was this an officer that was on the scene at  
16 Friends Tavern?

17 A. I don't remember.

18 Q. Can you describe what this Officer Smith looked  
19 like?

20 A. He was my height, young and skinny.

21 Q. What color hair did he have?

22 A. Black.

23 Q. How long were you in the cell with handcuffs on?  
24 How long was that, if you know?

25 A. A long time because the handcuffs were removing

G. CORTES

1 my flesh.

2 Q. More than two hours?

3 A. Yes.

4 Q. More than three hours?

5 A. When I left, when I went outside the precinct it  
6 was already daylight and I think it was around two hours.

7 Q. Were there any other prisoners taken out of the  
8 cell before you left in an ambulance?

9 A. No.

10 Q. At some point in time your shoulder started  
11 hurting?

12 A. Yes, I start feeling the pain and the pain was  
13 increasing. That's when I asked the officer that I needed  
14 the ambulance and also the position my hands were placed I  
15 was feeling a lot of pain.

16 Q. Which officer did you ask for an ambulance?

17 A. Officer Smith. Because the other ones wouldn't  
18 face me.

19 Q. Were you trying to get anyone else's attention?

20 A. No, because when I requested to talk to an  
21 officer, he was the only one who would come.

22 Q. Were there other officers in that room who  
23 weren't responding?

24 A. Yes, the officer that was at the computer.

25 Q. And that's the same officer who had been there



G. CORTES

1 from the very beginning?

2 A. Yes.

3 Q. How long were you in the cell after this incident  
4 happened before Officer Smith came in?

5 A. I don't know how to calculate it, but it wasn't  
6 for a long time.

7 Q. More than a half-hour?

8 A. Less.

9 Q. When Officer Smith came you said you needed  
10 medical attention?

11 A. Yes.

12 Q. And what did he say in response, if anything?

13 A. He left the room and when he came back that's  
14 when he told me if I call the ambulance, I would be the  
15 last person to leave.

16 Q. Did you say anything in response?

17 A. I told him I didn't care, that I was in pain.

18 Q. Were you speaking to him in English?

19 A. English. He didn't speak Spanish.

20 Q. Was an ambulance called for you, if you know?

21 A. An ambulance arrived. I'm assuming they called  
22 the ambulance, but that was a long time after.

23 Q. What happened when the ambulance arrived?

24 A. They asked them to remove me from the cell and  
25 also that they remove the handcuffs.



G. CORTES

1 Q. When you say "they," you mean the people who came  
2 in the ambulance, the EMS?

3 A. Yes.

4 Q. Were your handcuffs removed?

5 A. Yes.

6 Q. Were you seen by the EMS attendants?

7 A. They put a sling, they asked me what was hurting  
8 and I told them my shoulder. And they told me they were  
9 going to take me to the hospital.

10 Q. Were you taken to the hospital?

11 A. Yes.

12 Q. Were you given any forms to sign by the police  
13 officers before you were taken to the hospital?

14 A. No.

15 Q. Were you given any forms to sign by the EMS  
16 attendants before you were taken to the hospital?

17 A. No.

18 Q. Did any police escort you to the hospital?

19 A. Yes, one.

20 Q. You went in the ambulance with him?

21 A. Yes.

22 Q. Were you placed in handcuffs in the ambulance?

23 A. Yes.

24 Q. What happened when you got to the hospital?

25 A. The doctor saw me, I got X-rays and she gave me a

G. CORTES

1     painkiller.

2           Q.     Did they give you a diagnosis at that point in  
3     time?

4           A.     That my shoulder was sprained.

5           Q.     Were you taken back to the precinct after that?

6           A.     No.

7           Q.     Where were you taken, if you know?

8           A.     The officer told me if I didn't recover he would  
9     have to take me to the precinct and if I stayed there, it  
10    was going to be bad for me if I stayed at the hospital.

11          Q.     This was the officer who had escorted you to the  
12    hospital or a different officer?

13          A.     The person that was next to me the whole time.

14          Q.     Did he explain what he meant by it would be bad  
15    for you?

16          A.     Because they close the court at four. He said  
17    you're better off recovering so I could take you to court  
18    so you don't have to spend another night at the precinct  
19    because that's going to be bad for you.

20          Q.     Were you taken directly from the hospital to  
21    court or back to the precinct first?

22          A.     To the court. I left the hospital, I went to  
23    court. I left the hospital in a sling. They put me in a  
24    cell. Later on I went to see the judge, they assigned me a  
25    public defender and the judge asked me if my shoulder

G. CORTES

1 a gay bar?

2 A. Yes, because it is a famous place in Queens.

3 Q. Other than the fact that you were arrested there,  
4 is there any other reason that you have to believe that  
5 this officer, any of the five officers who injured you,  
6 knew you were gay?

7 MR. HARVIS: Objection.

8 You can answer.

9 A. Yes, because they were focused on me. They  
10 didn't bother with anybody in the cell. They were okay.  
11 They were just focused on me. They wanted to make phone  
12 calls, they got their cell phones and when I tried to make  
13 a phone call, they wouldn't allow me and the only reason  
14 they allowed me because I told them that was my right, the  
15 same when I tried to get water, they wouldn't remove the  
16 handcuffs so I had to get on the floor so another prisoner  
17 had to -- to give me water.

18 Q. Did any of the officers ever use any gay slurs  
19 around you?

20 A. I never heard of any.

21 Q. Did any officers use slur about you being  
22 Columbian?

23 A. I never heard anything.

24 Q. Is there anything else about that incident that  
25 happened in the precinct that is important that we haven't

G. CORTES

1 spoken about?

2 A. Yes, when I was leaving in the ambulance they  
3 secured one of the handcuffs towards my pants, to the  
4 middle of the pants.

5 As I was leaving there was an older officer that  
6 took a look at me and he said that's not the proper way to  
7 do it and he secured all the way to my right, which made it  
8 harder for me.

9 Q. Can you describe that officer?

10 A. An older officer. Gray hair. Tall.

11 Q. Was he wearing a little shirt?

12 A. Blue shirt.

13 Q. Was he white?

14 A. Yes.

15 Q. Had your seen him before that moment?

16 A. No, just at that moment.

17 Q. Is there anything else that is important about  
18 what happened at the precinct that we haven't discussed?

19 MR. HARVIS: Objection.

20 A. No.

21 Q. I know that you are claiming injuries as a result  
22 of this incident, correct?

23 A. Yes.

24 Q. Other than the injury to your shoulder which we  
25 will discuss, are there any other injuries that you are